

THOMAS GAUGHAN
Claimant

LAIRD NOLLER FORD, INC.
Respondent

REPUBLIC INDEMNITY CO.
Insurance Carrier

ORDER

ISSUES

The Administrative Law Judge (ALJ) denied the respondent's motion to terminate the claimant's medical benefits stating that the treatment was "consistent and appropriate for claimant's injury".¹

The respondent requests review of whether the claimant's psychological condition is traceable to his work-related accident. Respondent offered the written report of Dr. Pronko which suggests claimant's present need for psychiatric treatment is unrelated to his work-related injury. Thus, respondent believes claimant's ongoing psychiatric treatment should be terminated.

Claimant argues that the Order should be affirmed as Dr. Levy continues to maintain claimant is in need of psychiatric treatment.

¹ ALJ Order (May 10, 2007).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Undersigned Board Member makes the following findings of fact and conclusions of law:

The sole issue for purposes of this appeal is whether claimant's present and undisputed need for psychiatric treatment is attributable to his compensable March 29, 2005 injury. Claimant's accident involved him tripping and falling into a large glass window, striking his head. The medical evidence on the causation for the psychiatric treatment is in dispute.

Dr. Levy, the psychiatrist who has treated claimant following his injury at the suggestion of Dr. Sankoorikal, the treating physician, has indicated that claimant is in need of weekly visits as well as medications as a result of his accident. Claimant is making "gains" in his treatment and is working to overcome the pain and headaches he experiences on a daily basis, along with a variety of related psychological issues due to the pain and inability to work.

Respondent referred claimant to Dr. Pronko, who evaluated claimant in February 2007. According to Dr. Pronko's report, claimant does require psychiatric treatment, including medications, but he did not feel "there is any causal relationship between his March 29, 2005 injury and his current diagnosis" of Anxiety and Depression.²

Dr. Pronko based his opinion on the fact that claimant purportedly had preexisting headaches along with psychological issues. In fact, claimant admits that just before his accident, he had sought out a consultation with Dr. Levy just before his work-related accident. However, he attributes this request for help as the result of his need to address a childhood issue and an allegation of abuse. And claimant also explained that while he had sinus problems that led to headaches, his post-injury headaches are altogether different in nature and intensity.

The ALJ was persuaded that claimant's present treatment was appropriate and declined to terminate respondent's responsibility. He remained convinced that claimant's need for treatment was attributable to his accident rather than any unrelated or preexisting condition. This Board Member has reviewed the record and concludes the ALJ's preliminary hearing Order should be affirmed. Claimant's headaches are more intense and different in nature than the sinus complaints he had before his accident. And while there may have been an effort to seek out psychiatric treatment before his injury, this Board Member, like the ALJ, is persuaded that his present psychiatric complaints are attributable to his injury rather than any preexisting issue stemming from any childhood experience.

² P.H. Trans. (May 10, 2007), Resp. Ex. A at 3.

By statute, the above preliminary hearing findings and conclusions are neither final, nor binding as they may be modified upon full hearing of the claim.³ Moreover, this review on a preliminary hearing Order may be determined by only one Board Member, as permitted by K.S.A. 2006 Supp. 44-551(i)(2)(A), as opposed to the entire Board in appeals of final orders.

WHEREFORE, it is the finding, decision and order of the undersigned Board Member that the Order of Administrative Law Judge Brad E. Avery dated May 10, 2007, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of July 2007.

BOARD MEMBER

c: Jeff K. Cooper, Attorney for Claimant
Christopher J. McCurdy, Attorney for Respondent and its Insurance Carrier
Brad E. Avery, Administrative Law Judge

³ K.S.A. 44-534a.